

# UTILITY PATENT APPLICATION TRANSMITTAL (Large Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.  
0701.079H

Total Pages in this Submission

## TO THE COMMISSIONER FOR PATENTS

Mail Stop Patent Application  
P.O. Box 1450  
Alexandria, VA 22313-1450

Transmitted herewith for filing under 35 U.S.C. 111(a) and 37 C.F.R. 1.53(b) is a new utility patent application for an invention entitled:

**USE OF B-2 BRONCHODILATOR DRUGS**

and invented by:

**MORLEY, John**

17548 U.S. PTO  
10/821553  
040904

If a **CONTINUATION APPLICATION**, check appropriate box and supply the requisite information:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 10/095,846

Which ~~was~~ was filed March 12, 2002 as a

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/550,039

Which ~~was~~ was filed April 14, 2000 as a

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 08/972,526

(abandoned)  
Enclosed are:

**ADDITIONAL INFORMATION CONTINUED ON SHEET 1A**

### Application Elements

1. ☒ Filing fee as calculated and transmitted as described below
2. ☒ Specification having 27 pages and including the following:
  - a. ☒ Descriptive Title of the Invention
  - b. ☐ Cross References to Related Applications (if applicable)
  - c. ☐ Statement Regarding Federally-sponsored Research/Development (if applicable)
  - d. ☐ Reference to Sequence Listing, a Table, or a Computer Program Listing Appendix
  - e. ☒ Background of the Invention
  - f. ☒ Brief Summary of the Invention
  - g. ☐ Brief Description of the Drawings (if filed)
  - h. ☒ Detailed Description
  - i. ☒ Claim(s) as Classified Below
  - j. ☒ Abstract of the Disclosure

## UTILITY PATENT APPLICATION TRANSMITTAL (continued)

(Large Entity)

## CONTINUATION APPLICATION INFORMATION

which was filed November 18, 1997 as a division of United States Serial Number 08/382,744 (abandoned), which was filed December 2, 1995 as a continuation of United States Serial Number 08/223,798 (abandoned), which was filed April 6, 1994 as a continuation of United States Serial Number 07/862,907 filed April 3, 1992 (abandoned), and claims priority from UK Patent Application 9107196.9 filed April 5, 1991. The entire contents of the prior applications are incorporated herein by reference.

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Large Entity)**

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**Application Elements (Continued)**

3. ☐ Drawing(s) *(when necessary as prescribed by 35 USC 113)*
- a. ☐ Formal                      Number of Sheets \_\_\_\_\_
- b. ☐ Informal                      Number of Sheets \_\_\_\_\_
4. ☒ Oath or Declaration
- a. ☐ Newly executed *(original or copy)*                      ☐ Unexecuted
- b. ☒ Copy from a prior application (37 CFR 1.63(d)) *(for continuation/divisional application only)*
- c. ☒ With Power of Attorney                      ☐ Without Power of Attorney
- d. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) named in the prior application,  
see 37 C.F.R. 1.63(d)(2) and 1.33(b).
5. ☒ Incorporation By Reference *(usable if Box 4b is checked)*  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied  
under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby  
incorporated by reference therein.
6. ☐ CD ROM or CD-R in duplicate, large table or Computer Program (Appendix)
7. ☒ Application Data Sheet (See 37 CFR 1.76)
8. ☐ Nucleotide and/or Amino Acid Sequence Submission *(if applicable, all must be included)*
- a. ☐ Computer Readable Form (CRF)
- b. ☐ Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ Paper
- c. ☐ Statement(s) Verifying Identical Paper and Computer Readable Copy

**Accompanying Application Parts**

9. ☐ Assignment Papers *(cover sheet & document(s))*
10. ☐ 37 CFR 3.73(B) Statement *(when there is an assignee)*
11. ☐ English Translation Document *(if applicable)*
12. ☐ Information Disclosure Statement/PTO-1449                      ☐ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) *(Should be specifically itemized)*
15. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
16. ☒ Certificate of Mailing
- ☐ First Class    ☒ Express Mail *(Specify Label No.):* EV 036120380 US

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Large Entity)**

*(Only for new nonprovisional applications under 37 CFR 1.53(b))*

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**Accompanying Application Parts (Continued)**

17. ☒ Additional Enclosures *(please identify below)*:

Copy of IDC from prior application (8 pages);  
Copy of Appointment of Associate Attorney;  
Extension of Time (3 months, Large Entity) for prior application (10/095,846).

**Request That Application Not Be Published Pursuant To 35 U.S.C. 122(b)(2)**

18. ☐ Pursuant to 35 U.S.C. 122(b)(2), Applicant hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

**Warning**

***An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.***

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Large Entity)**

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**Fee Calculation and Transmittal**

**CLAIMS AS FILED**

For	#Filed	#Allowed	#Extra	Rate	Fee
Total Claims	5	- 20 =	0	x \$18.00	\$0.00
Indep. Claims	2	- 3 =	0	x \$86.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
BASIC FEE					\$770.00
OTHER FEE (specify purpose)					\$0.00
TOTAL FILING FEE					\$770.00

- ☒ A check in the amount of \$770.00 to cover the filing fee is enclosed.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. 08-1935 as described below.
- ☐ Charge the amount of as filing fee.
- ☒ Credit any overpayment.
- ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
- ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

  
Signature

Kathy Smith Dias, Esq.  
Registration No. 41,707  
Customer No. 23405  
Heslin Rothenberg Farley & Mesiti P.C.  
5 Columbia Circle  
Albany, New York 12203  
Telephone: (518) 452-5600

Dated: April 9, 2004

cc:

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

In Re Application of: MORLEY, John

Title: USE OF  $\beta_2$  BRONCHODILATOR DRUGS

Attorney Docket No.: 0701.079H

"EXPRESS MAIL" MAILING LABEL NO. EV 036120380 US

Date of Deposit April 9, 2004

I hereby certify that this paper is being deposited with the U.S. Postal Service  
"Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date  
indicated above and addressed to:

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Darlene E. Novak**

(Typed or printed name of person mailing paper or fee)



(Signature of person mailing paper or fee)

Enclosed:

- \*Utility Patent Application Transmittal Letter (Large Entity) (5 pages) (in duplicate);
- \*Copy of Specification (27 pages);
- \*Preliminary Amendment (6 pages);
- \*Copy of signed Declaration and Power of Attorney from prior application;
- \*Application Data Sheet;
- \*Copy of Information Disclosure Citation from prior application;
- \*Appointment of Associate Attorney;
- \*Copy of Revocation of Powers of Attorney and Appointment of New Attorneys from prior application;
- \*Check in the amount of \$770.00 for the patent filing fee;
- \*Request For Extension of Time;
- \*Check in the amount of \$950.00 for the extension fee;
- \*One (1) acknowledgment postcard.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Morley, John Docket No.: 0701.079G  
Serial No.: 10/095,846 Group Art Unit: 1614  
Filed: March 12, 2002 Examiner: Cook, R.  
Title: USE OF  $\beta_2$  BRONCHODILATOR DRUGS

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR EXTENSION OF TIME UNDER 37 CFR § 1.136(a)

Dear Sir:

Applicant hereby requests an extension of three (3) months for filing a Response to an Office Action mailed on October 10, 2003. A check in the amount of \$950.00 to cover this request is enclosed. The Commissioner is hereby authorized to charge any deficiency in payment and to credit any overpayment to Deposit Account 08-1935.

Respectfully submitted,



Kathy Smith Dias  
Attorney for Applicant(s)  
Reg. No. 41,707

Dated: April 9, 2004

HESLIN ROTHENBERG FARLEY & MESITI P.C.  
5 Columbia Circle  
Albany, New York 12203  
Telephone: (518) 452-5600  
Facsimile: (518) 452-5579